

**UNITED STATES BANKRUPTCY COURT
FOR THE
EASTERN DISTRICT OF VIRGINIA
Alexandria Division**

In the Matter of:

DARRIN Z. BURTON

Debtor(s)

Chapter 13
Case No. 19-12225-BFK

ORDER OF DISMISSAL WITH PREJUDICE

The matter came for hearing on Trustee's Motion to Dismiss Case with Prejudice (Dkt. No. 52 and amended Dkt. No. 53); and

IT APPEARING that the Motion, originally filed May 12, 2020 and amended on May 20, 2020, was properly noticed for hearing on June 4, 2020 and that Trustee appeared (telephonically) at the hearing, Debtor's counsel appeared (telephonically), and Counsel for Margarita Mendoza and Michael A. Mendoza appeared (telephonically); and

IT APPEARING that this Court previously heard and conditionally denied a motion to dismiss by Margarita Mendoza and Michael A. Mendoza, by Order entered on November 18, 2019 (Dkt. No. 43), which Order provides:

Throughout the duration of the case, the Trustee shall send the Debtor and Debtor's counsel a Notice of Default if the Debtor is not timely with his payments. The Trustee is authorized to communicate directly with the Debtor for this purpose. If the Debtor does not cure the default within 15 days, or if the Debtor defaults 3 times within a 12-month period, the Trustee shall file a Certification of Default and a proposed Order. Upon the filing of a Certification of Default, the case will be dismissed with prejudice for a period of 2 years.

IT FURTHER APPEARING, after review of the argument of the Trustee, Counsel for Margarita Mendoza and Michael A. Mendoza, and Debtor's counsel, that the Trustee's Motion is proper and should be granted for the reasons stated from the Bench, including but not limited to

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the fact that the Motion served to put Debtor on notice of the Plan payment default as required under this Court's previous Order, it is therefore hereby

ORDERED, that this Chapter 13 case of Darrin Z. Burton be and hereby is dismissed with prejudice to Debtor's right to file a petition pursuant to Title 11 of the United States Code, in any U.S. Bankruptcy Court, for a period of Two (2) years from the date of the entry of this Order.

ORDERED, that the debtor(s) pay the balance of the filing fee in the amount of \$0.00 to the Clerk of Court within ten (10) days of the date of this order; and it is further

ORDERED, that any interest earned and attributable to Plan payments made in this Chapter 13 case is hereby awarded to the office of the Chapter 13 Trustee of this Court as actual and necessary expenses pursuant to 11 U.S.C. 330(a)(1)(B), and it is further

ORDERED, that the dismissal of this case reverts the property of the estate in the entity in which such property was vested immediately before the commencement of the case. The Trustee need not file a final report in this case unless property or money is administered.

If the debtor(s) has been making payments by payroll deduction, the employer as set forth in that Order for payroll assignment shall cease any payroll deductions for the benefit of the Chapter 13 Trustee.

Dated: Jun 16 2020

/s/ Brian F. Kenney
Brian F. Kenney
U.S. Bankruptcy Judge

Entered on Docket: June 16, 2020

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I ASK FOR THIS:

/s/ Thomas P. Gorman
Thomas P. Gorman
Chapter 13 Trustee
300 N. Washington Street; Ste. 400
Alexandria, VA 22314
(703) 836-2226
VSB#26421

SEEN and OBJECTED TO:

/s/ Earl J. Oberbauer, Jr.
Earl J. Oberbauer, Jr.
9329 Battle St.
Manassas, VA 20110
Counsel for Debtor

SEEN:

/s/ Jonathan Baird Vivona
Jonathan Baird Vivona
Jonathan B. Vivona, PLC
601 King Street, Ste. 400
Alexandria, VA 22314
Counsel for Margarita Mendoza and Michael A. Mendoza

Local Rule 9022-1 (C) Certification

The foregoing order was endorsed by and/or served upon all necessary parties pursuant to Local Rule 9022-1(C).

/s/ Thomas P. Gorman
Thomas P. Gorman, Chapter 13 Trustee

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PARTIES TO RECEIVE COPIES

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